

Message Text

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PAGE 01 BOGOTA 11030 171441Z

46

ACTION L-03

INFO OCT-01 ARA-06 ISO-00 SNM-02 /012 W
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R 142035Z NOV 75
FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC 1923
DEA HQS WASHDC
INFO AMEMBASSY CARACAS

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DEPT FOR S/NM ARA FOR L/SFP

DEA FOR EOI, PLASE; EDIC FOR MCEYNN, AND CENTAC VI
FOR THOMAS

DEA PASS NEW YORK REGION FOR GROUP 43

EO 11652: NA
TAGS: SNAR CO
SUBJ: USG-GOC CONSULTATIONS ON EXCHANGE OF EVIDENCE IN
NARCOTICS PROSECUTIONS

REF: BOGOTA 10197, STATE 25182) AND 256117 (NOTAL)

SUMMARY: LOUIS FIELDS (STATE L/SFP), BERNARD FRIED (AUSA,
EASTERN DISTRICT NEW YORK) AND RICHARD G THOMAS (DEA,
CENTAC VI) VISITED BOGOTA NOV 9 THRU 13 FOR CONSULTATIONS
ON EXCHANGES OF NARCOTICS EVIDENCE WITH GOC ATTORNEY
GENERAL. THEY MET WITH ATTORNEY GENERAL (PROCURADOR)
SERRANO RUEDA, ASSISTANT ATTORNEY GENERAL SANCHEZ MENDEZ,
VARIOUS GOC PROSECUTORS AND JUDGES OF SUPERIOR CRIMINAL
TRIBUNALS. CONSULTATIONS RESULTED IN AGREEMENT ON SYSTEM
FOR PRESENTING A TEST NARCOTICS PROSECUTION IN COLOMBIA
COURTS USING EVIDENCE TO BE DEVELOPED IN US BY DEA AND
US ATTORNEY EASTERN DISTRICT NEW YORK. MISSION FOLLOWING-
UP ON ALL ABOVE WITH GOC ATTORNEY GENERAL AND WITH MINISTRY
OF JUSTICE. END SUMMARY.

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1. FOLLOWING CONSULTATIONS WITH FIELDS, FRIED AND THOMAS GOC ATTORNEY GENERAL SERRANO AGREED TO PRESENT A TEST NARCOTICS CASE TO THE COLOMBIAN COURTS USING EVIDENCE COLLECTED IN THE UNITED STATES. ATTORNEY GENERAL STATED THAT PROCEDURES DEVELOPED DURING CONSULTATIONS, IN HIS OPINION, HAVE A FAIR CHANCE OF SUCCESS. IF COLOMBIAN COURTS SHOULD REJECT TEST CASE, HE WOULD SEEK APPEAL TO THE SUPERIOR CRIMINAL TRIBUNAL, AND LATER, IF NECESSARY, TO THE COLOMBIAN SUPREME COURT. INDEED, SERRANO WAS OF THE OPINION THAT A SUPREME COURT DECISION WOULD BE OF GREAT VALUE IN FUTURE NARCOTICS PROSECUTIONS HERE USING US EVIDENCE. IF , HOWEVER, GOC COURTS SHOULD REJECT SUCH PROSECUTIONS, ATTORNEY GENERAL STATED HE PREPARED TO SEEK AMENDMENT OF GOC LEGAL CODES. IF THAT APPROACH SHOULD ALSO FAIL, HE THOUGHT THAT GOC COULD CONSIDER ENTERING INTO BILATERAL AGREEMENT WITH USG COVERING EVIDENCE EXCHANGES. SUCH AGREEMENT WOULD HAVE FULL FORCE OF LAW IN COLOMBIA.

2. PER AGREEMENT WITH ATTORNEY GENERAL, FOLLOWING SCENARIO SEEMS BEST SUITED TO OUR PURPOSES:

A. A TEST CASE WILL BE PREPARED AND EVIDENTIAL MATERIAL FORWARDED TO MISSION FOR PRESENTATION TO ATTORNEY GENERAL. DOCUMENTS SUBMITTED WILL BE SIMILAR IN FORM TO THOSE SUBMITTED IN THE TEST CASE PREPARED BY THE US ATTORNEY EASTERN DISTRICT NEW YORK FOR PROSECUTION IN CHILE.

B. EVIDENTIAL DOCUMENTS SHOULD NOT BE TRANSLATED INTO SPANISH. ATTORNEY GENERAL WILL ARRANGE FOR GOC FOREIGN MINISTRY TRANSLATIONS HERE. DOCUMENTS WOULD, HOWEVER, BE FULLY CERTIFIED, BOTH BY THE US DISTRICT COURT AND A COLOMBIAN CONSUL.

C. GOC JUDGES WILL FORMALLY REQUEST BY LETTERS ROGATORY ANY SUPPLEMENTAL OR CONFIRMATORY EVIDENCE.

3. BECAUSE OF THE PROVISIONS OF ARTICLES FIVE AND EIGHT OF THE COLOMBIAN PENAL CODE, IT IS UNLIKELY THAT COLOMBIAN NATIONALS PROSECUTED AND SENTENCED IN THE US WOULD BE (OR LIMITED OFFICIAL USE

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COULD BE) CHARGED HERE. PROVISIONS OF THESE ARTICLES COULD BE READ TO COOPERATING DEFENDANTS IN US THEREBY STIMULATING THEIR COOPERATION FOR COLOMBIAN PROSECUTIONS AS WELL.

4. THE PROCEDURES OUTLINED ABOVE WILL BE FULLY DISCUSSED IN A MEMO TO BE PREPARED BY AUSA FRIED UPON HIS RETURN TO NEW YORK. A COPY OF THIS MEMO WILL BE SUBMITTED TO

THE DEPT (L/SFP).

5. MISSION BELIEVES THAT FOLLOW-UP CONSULTATIONS ON ALL ABOVE WILL BE NECESSARY AT SAME TIME AS OR IMMEDIATELY FOLLOWING SUBMISSION FIRST TEST CASE. WE WOULD HOPE THAT FIELDS, FRIED AND THOMAS WOULD BE AVAILABLE FOR THESE CONSULTATIONS. IN MEANTIME, MISSION FOLLOWING-UP ON AL ABOVE WITH ATTORNEY GENERAL AND WITH GOC MINJUSTICE. VAKY

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DRUG CONTROL, INTERGOVERNMENTAL COOPERATION
Control Number: n/a
Copy: SINGLE
Draft Date: 14 NOV 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BOGOTA11030
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750399-1186
From: BOGOTA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751143/aaaabmiv.tel
Line Count: 124
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 BOGOTA 10197, 75 STATE 25182, 75 STATE 256117
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 08 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 SEP 2003 by KelleyW0>; APPROVED <19 NOV 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: USG-GOC CONSULTATIONS ON EXCHANGE OF EVIDENCE IN NARCOTICS PROSECUTIONS
TAGS: SNAR, CO, US
To: STATE DEA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006